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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,641	02/06/2004	Gerald M. Gresko	CC-3628/A0363US3	7641

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EXAMINER

MILLER, JONATHAN R

ART UNIT PAPER NUMBER

3653

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/773,641	Applicant(s) GRESKO ET AL.	
	Examiner Jonathan R. Miller	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 34-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-9,34-36 and 42-44 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 37-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 7-9, 34, 35 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Gochar, Jr. ('447). The reference discloses a conveyor (42) for moving said plural closures (16) longitudinally therealong, said conveyor having a conveying surface that supports an outside surface of said closures; a color sensor (46) that senses said panel of each one of said closures on said conveyor for a predetermined color, said color sensor being capable of identifying a sufficient color status that corresponds to said predetermined color and to a sufficient lining and a deficient color status that corresponds to an insufficient lining (col. 5, lines 45+); and a separator (60) capable of removing from said conveyor closures having a deficient color status whereby said system automatically identifies and removes said closures that have said deficient color from the conveyor.

3. With regards to claim 7, the reference further discloses said color sensor senses a predetermined wavelength of light to identify the sufficient color status (col. 5, lines 45+).

4. With regards to claim 8, the reference further discloses the separator comprises a compressed air jet that blows said closures having the deficient color status from said conveyor (col. 7, lines 15+).

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5. With regards to claim 9, the reference further discloses said color sensor is directed to said conveyor surface (col. 5, lines 45+).

6. With regards to claim 34, the reference further discloses said color sensor is capable of sensing a predetermined wavelength of light to identify the sufficient color status (col. 5, lines 45+).

7. With regards to claim 35, the reference further discloses the closure is unitary such that the panel is unitarily formed with a skirt (col. 4, lines 55+).

8. With regards to claim 36, the reference further discloses a conveyor for moving said plural closures longitudinally therealong, said conveyor having a conveying surface that supports an outside surface of said closures; a color sensor that senses said panel of each one of said closures on said conveyor for a predetermined color, said color sensor being capable of identifying a sufficient color status that corresponds to said predetermined color and to a sufficient lining compound and a deficient color status that corresponds to an insufficient lining compound; and a separator capable of removing from said conveyor closures having a deficient color status, whereby said system automatically identifies and removes said closures that have said deficient color from the conveyor.

Claim Rejections - 35 USC § 103

9. Claims 2 and 42 – 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gochar, Jr, ('447) in view of Zapata.

10. With regards to claim 2, Gochar, Jr. fails to explicitly disclose an oven for baking said lining, said conveyor moving said closures into said oven. Zapata discloses an oven for baking said lining, said conveyor moving said closures into said oven (col. 5, lines 60+). At the time of

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the invention, it would have been obvious to one of ordinary skill in the art to utilize an oven to cure the compound prior to testing the closures. This is the standard practice by which these closures are manufactured. Gochar, Jr. is directed to a testing apparatus for testing the closures after they have been manufactured, while Zapata is directed to manufacturing the closures.

Gochar, Jr. and Zapata are analogous art as they are from the same field of endeavor: cap closures.

11. With regards to claim 42, Gochar, Jr. fails to explicitly disclose the lining contains a plastisol. Zapata discloses the lining contains a plastisol (col. 5, lines 60+). This is the standard practice by which these closures are manufactured. Gochar, Jr. is directed to a testing apparatus for testing the closures after they have been manufactured, while Zapata is directed to manufacturing the closures.

12. With regards to claim 43, Gochar, Jr. fails to explicitly disclose the closures are reheated in an oven to cure the plastisol. Zapata discloses the closures are reheated in an oven to cure the plastisol (col. 5, lines 60+). This is the standard practice by which these closures are manufactured. Gochar, Jr. is directed to a testing apparatus for testing the closures after they have been manufactured, while Zapata is directed to manufacturing the closures.

13. With regards to claim 44, Gochar, Jr. fails to explicitly disclose the oven heats the closure to approximately 380 – 400 degrees Fahrenheit. Zapata discloses the oven heats the closure to approximately 380 – 400 degrees Fahrenheit (col. 5, lines 60+). This is the standard practice by which these closures are manufactured. Gochar, Jr. is directed to a testing apparatus for testing the closures after they have been manufactured, while Zapata is directed to manufacturing the closures.

Allowable Subject Matter

14. Claims 3-6, and 37 – 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter: the references fail to disclose or render obvious the color sensor disposed between the compound machine and the oven, in combination with the other limitations of claim 3.

Response to Arguments

16. Applicant's arguments filed 1/09/06 have been fully considered but they are not persuasive. Applicant contends that Gochar, Jr. fails to disclose color detection. Applicant is incorrect. Gochar, Jr. utilizes a CCD to detect particular wavelengths of light. By definition, color is the perception of the frequency of light.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R. Miller whose telephone number is (571) 272-6940. The examiner can normally be reached on M-F: 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy A. Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrm

Kathy Matecki
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